

EXHIBIT "D"

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

YOLANDA R. EFFINGER,

Plaintiff,

v.

WINN-DIXIE MONTGOMERY, INC.

Defendant.

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Case No.: 2:07-CV-657-ID-TFM

**DEFENDANT'S RESPONSES TO
PLAINTIFF'S FIRST REQUESTS FOR PRODUCTION**

COMES NOW the Defendant Winn-Dixie Montgomery, Inc. and herewith responds to Plaintiff's First Requests for Production as follows:

GENERAL OBJECTIONS

Defendant objects to each of Plaintiff's discovery requests to the extent that each is overly broad, vague, unduly burdensome, seeks information not designed nor reasonably calculated to the discovery of relevant evidence; and, purport to request information protected by the attorney/client privilege or the work-product doctrine or seeks information taken and/or prepared in anticipation of litigation, or privileged, not subject to discovery or which otherwise are impermissible subjects of discovery under the rules of civil procedure.

Defendant further objects to each discovery request to the extent each seeks documents or things which constitute confidential, proprietary information, or to which Defendant has a duty or obligation of confidentiality with respect to persons or entities not parties to this litigation. This objection is made specifically, but without limitation, with respect to any request which entails disclosure of the identities or other confidential

information of persons not parties to this litigation, whose privacy rights would be violated by such disclosure.

SPECIFIC RESPONSES

1. Attach a written list or other record of all agents or employees of defendant together with their job title, who worked at defendant's store where plaintiff fell on August 20, 2006?

RESPONSE: Defendant objects as overly broad; however, without waiving said objection, see attached.

2. Attach a copy of defendant's store maintenance or janitorial policy or procedure in effect on August 20, 2006?

RESPONSE: See attached.

3. Attach a copy of any incident or accident report which defendant or its agents or employees prepared with regard to plaintiff's fall of August 20, 2006 as referenced in her complaint.

RESPONSE: Defendant objects as privileged, taken and/or prepared in anticipation of litigation, work product, protected by the attorney-client privilege, and not subject to discovery.

4. Attach copies of any witness statements regarding plaintiff's fall of August 20, 2006 as referenced in her complaint.

RESPONSE: Defendant objects as privileged, taken and/or prepared in anticipation of litigation, work product, protected by the attorney-client privilege, and not subject to discovery.

5. Attach copies of any statement, written or oral, made by plaintiff regarding her fall of August 20, 2006 or regarding any matter raised by her complaint?

RESPONSE: Based on information and belief, Defendant has no statement of Plaintiff; but if it does, it will make any statement of Plaintiff available.

6. Attach copies of any computer record or, electronic data or media within defendant's possession which supports its defenses raised in or by its answer.

RESPONSE: Defendant objects as privileged, taken and/or prepared in anticipation of litigation, work product, protected by the attorney-client privilege, and not subject to discovery.

7. Attach a complete list of all fact witnesses defendant expects to call at trial, including their addresses and occupations.

RESPONSE: Will supplement in accord with the Court's Uniform Scheduling Order; see also Defendant's disclosures.

8. Attach a complete list of all expert witnesses defendant expects to call at trial, including their addresses and occupations.

RESPONSE: Will supplement in accord with the Court's Uniform Scheduling Order.

9. Attach all documents obtained by defendant by reason of third party subpoenas it has issued under Rule 45 of the Federal Rule of Civil Procedures in this case.

RESPONSE: Will be made available for inspection by Plaintiff's attorney at a mutually agreeable time and place.

10. Attach copies of all documents which support any defenses raised by defendant.

RESPONSE: See attached.

11. Attach any photographs within defendant's possession pertaining to claims and defenses raised by the parties in this case.

RESPONSE: Based on information and belief, none.

12. Attach any surveillance tape or other video tape made of plaintiff's fall or the area of her fall on August 20, 2006.

RESPONSE: Based on information and belief, none.

13. Attach each and every incident report involving falls suffered by defendant's customers at the location of plaintiff's fall for 2005 and 2006?

RESPONSE: Defendant objects as overly broad, privileged, taken and/or prepared in anticipation of litigation, work product and not subject to discovery and not designed to lead to the discovery of relevant evidence.

14. Attach each and every claim for "slip and fall" injury by defendant's customers at the location of plaintiff's fall for 2005 and 2006?

RESPONSE: Defendant objects as overly broad, privileged, taken and/or prepared in anticipation of litigation, work product and not subject to discovery and not designed to lead to the discovery of relevant evidence.

15. Attach each and every court complaint for "slip and fall" injury by defendant's customers at the location of plaintiff's fall for 2005 and 2006?

RESPONSE: Defendant objects as overly broad, privileged, taken and/or prepared in anticipation of litigation, work product and not subject to discovery and not designed to lead to the discovery of relevant evidence.

16. Attach each and every deposition given by defendant or its agents or employees in "slip and fall" claims filed by its customers at the location of plaintiff's fall for 2005 and 2006.

RESPONSE: Defendant objects as overly broad, privileged, taken and/or prepared in anticipation of litigation, work product and not subject to discovery and not designed to lead to the discovery of relevant evidence.

17. Attach each and every building code violation or OSHA violation received by defendant covering its store where plaintiff fell over the past three (3) years.

RESPONSE: Defendant objects as overly broad and not designed to lead to the discovery of relevant evidence; however, without waiving said objections, based on information and belief, none.

18. Attach copies of all building or construction plans covering renovations or changes made to the area where plaintiff fell, especially those covering floors, cash registers, and grocery carts after August 20, 2006.

RESPONSE: Based on information and belief, none to this area; the only renovations and changes is a "Cheese Case Replacement" in September, 2006.

19. Attach any document or thing which defendant intends to offer as evidence at trial.

RESPONSE: Will supplement in accord with the Court's Uniform Scheduling Order.

/s/ Randall Morgan

RANDALL MORGAN [MOR037]
Defendant Winn-Dixie Montgomery, Inc

OF COUNSEL:

HILL, HILL, CARTER, FRANCO,

COLE & BLACK, P.C.

425 South Perry Street

P.O. Box 116

Montgomery, Alabama 36101-0116

(334) 834-7600

(334) 263-5969..FAX

CERTIFICATE OF SERVICE

I hereby certify that the foregoing was duly served via E-Mail, facsimile and by placing a copy of same in the U.S. mail, properly addressed and first class postage prepaid this the 30th day of November, 2007 upon the following:

Ronald B. Hatcher, Esq.

P.O. Box 161442

Atlanta, GA 30321

/s/ Randall Morgan

OF COUNSEL

BADGE	LASTNAME	FIRSTNAME	TYPE	LOCATION	START	END
95730	NADEAU	LEAH	REG	531	8/20/06 5:00 PM	8/21/06 1:25 AM
95730	NADEAU	LEAH	RTP	531	8/21/06 1:25 AM	8/21/06 1:30 AM
97278	TAYLOR	FRANK	REG	531	8/20/06 9:15 AM	8/20/06 8:25 PM
97278	TAYLOR	FRANK	RTP	531	8/20/06 8:25 PM	8/20/06 8:30 PM
97278	TAYLOR	FRANK	REG	531	8/20/06 8:30 PM	8/20/06 8:40 PM
97389	BEDGOOD	CHARLES	REG	531	8/20/06 12:00 PM	8/20/06 5:00 PM
97657	DYE	MARTHA	RTP	531	8/20/06 7:00 AM	8/20/06 7:06 AM
97657	DYE	MARTHA	REG	531	8/20/06 7:06 AM	8/20/06 4:57 PM
97657	DYE	MARTHA	BREAK	531	8/20/06 4:57 PM	8/20/06 5:10 PM
97657	DYE	MARTHA	REG	531	8/20/06 5:10 PM	8/20/06 5:55 PM
97657	DYE	MARTHA	RTP	531	8/20/06 5:55 PM	8/20/06 6:00 PM
98556	BATES	WILLIAM	REG	531	8/20/06 8:15 AM	8/20/06 1:42 PM
98556	BATES	WILLIAM	BREAK	531	8/20/06 1:42 PM	8/20/06 1:54 PM
98556	BATES	WILLIAM	REG	531	8/20/06 1:54 PM	8/20/06 4:24 PM
98556	BATES	WILLIAM	RTP	531	8/20/06 4:24 PM	8/20/06 4:30 PM
98838	COOK	GENE	REG	531	8/20/06 12:00 AM	8/22/06 12:00 AM
101195	BARLOW	BRYAN	RTP	531	8/20/06 8:45 AM	8/20/06 8:50 AM
101195	BARLOW	BRYAN	REG	531	8/20/06 8:50 AM	8/20/06 5:06 PM
101195	BARLOW	BRYAN	BREAK	531	8/20/06 5:06 PM	8/20/06 5:21 PM
101195	BARLOW	BRYAN	REG	531	8/20/06 5:21 PM	8/20/06 6:09 PM
101195	BARLOW	BRYAN	RTP	531	8/20/06 6:09 PM	8/20/06 6:15 PM
101918	STODGHILL	STEPHEN	RTP	531	8/20/06 6:15 AM	8/20/06 6:16 AM
101918	STODGHILL	STEPHEN	REG	531	8/20/06 6:16 AM	8/20/06 3:10 PM
101918	STODGHILL	STEPHEN	RTP	531	8/20/06 3:10 PM	8/20/06 3:15 PM
101918	STODGHILL	STEPHEN	REG	531	8/20/06 3:15 PM	8/20/06 3:25 PM
104705	DOLLAR	ADAM	REG	531	8/20/06 12:00 PM	8/21/06 1:25 AM
104705	DOLLAR	ADAM	RTP	531	8/21/06 1:25 AM	8/21/06 1:30 AM
105223	JOHNSTON	ALLISON	REG	531	8/20/06 1:00 PM	8/20/06 5:00 PM
142256	NICKERSON	NATOSHIA	RTP	531	8/20/06 12:30 PM	8/20/06 12:35 PM
142256	NICKERSON	NATOSHIA	REG	531	8/20/06 12:35 PM	8/20/06 8:11 PM
142256	NICKERSON	NATOSHIA	RTP	531	8/20/06 8:11 PM	8/20/06 8:15 PM
228413	COTTRELL	NATASHA	SICK	531	8/20/06 6:00 AM	8/20/06 6:00 PM
323130	NOBLE	WALLACE	REG	531	8/20/06 7:00 AM	8/20/06 1:15 PM
323130	NOBLE	WALLACE	MEAL	531	8/20/06 1:15 PM	8/20/06 1:45 PM
323130	NOBLE	WALLACE	REG	531	8/20/06 1:45 PM	8/20/06 5:11 PM
323130	NOBLE	WALLACE	RTP	531	8/20/06 5:11 PM	8/20/06 5:15 PM
358516	STINSON	VANETTA	REG	531	8/20/06 2:00 PM	8/20/06 8:00 PM
366717	RAYFORD	BRITTNEY	RTP	531	8/20/06 6:00 AM	8/20/06 6:07 AM
366717	RAYFORD	BRITTNEY	REG	531	8/20/06 6:07 AM	8/20/06 2:30 PM
366717	RAYFORD	BRITTNEY	REG	531	8/20/06 2:30 PM	8/20/06 3:10 PM
366717	RAYFORD	BRITTNEY	RTP	531	8/20/06 3:10 PM	8/20/06 3:15 PM
366717	RAYFORD	BRITTNEY	REG	531	8/20/06 3:15 PM	8/20/06 3:25 PM
378312	ROBINSON	ANGELO	RTP	531	8/20/06 1:30 PM	8/20/06 1:32 PM
378312	ROBINSON	ANGELO	REG	531	8/20/06 1:32 PM	8/20/06 5:03 PM
378312	ROBINSON	ANGELO	MEAL	531	8/20/06 5:03 PM	8/20/06 5:33 PM
378312	ROBINSON	ANGELO	REG	531	8/20/06 5:33 PM	8/20/06 8:27 PM
378312	ROBINSON	ANGELO	RTP	531	8/20/06 8:27 PM	8/20/06 8:30 PM
392921	FRANKS	DIANE	REG	531	8/20/06 12:00 PM	8/20/06 9:00 PM
399877	JUDKINS	CEDRIC	RTP	531	8/20/06 9:15 AM	8/20/06 9:19 AM
399877	JUDKINS	CEDRIC	REG	531	8/20/06 9:19 AM	8/20/06 5:00 PM
404225	THOMPSON	ANASTASIA	REG	531	8/20/06 1:30 PM	8/20/06 8:26 PM
404225	THOMPSON	ANASTASIA	RTP	531	8/20/06 8:26 PM	8/20/06 8:30 PM
434438	HINKLE	JAVIEN	REG	531	8/20/06 6:15 PM	8/21/06 1:40 AM
434438	HINKLE	JAVIEN	RTP	531	8/21/06 1:40 AM	8/21/06 1:45 AM
440130	WOODFIN	KATHRYNE	REG	531	8/20/06 6:00 AM	8/20/06 2:45 PM
440253	WELCH	JESSICA	REG	531	8/20/06 10:45 AM	8/20/06 4:00 PM

440318	GARRISON	TAVIAN	REG	531	8/20/06 2:15 PM	8/20/06 10:00 PM
451501	RUDOLPH	ASHLEY	REG	531	8/20/06 9:00 AM	8/20/06 3:11 PM
451501	RUDOLPH	ASHLEY	MEAL	531	8/20/06 3:11 PM	8/20/06 3:42 PM
451501	RUDOLPH	ASHLEY	REG	531	8/20/06 3:42 PM	8/20/06 7:12 PM
451501	RUDOLPH	ASHLEY	RTP	531	8/20/06 7:12 PM	8/20/06 7:15 PM
451615	DAVIS	VINNIE	REG	531	8/20/06 9:00 AM	8/20/06 4:00 PM
452248	MORRIS	CAROLYN	RTP	531	8/20/06 9:30 AM	8/20/06 9:31 AM
452248	MORRIS	CAROLYN	REG	531	8/20/06 9:31 AM	8/20/06 4:00 PM
456257	WILLIAMS	ANDRE	RTP	531	8/20/06 4:15 PM	8/20/06 4:19 PM
456257	WILLIAMS	ANDRE	REG	531	8/20/06 4:19 PM	8/20/06 9:00 PM
461018	WILLIAMS	RELONDRA	REG	531	8/20/06 8:00 PM	8/21/06 12:15 AM
461020	HAMILTON IV	GEORGE	REG	531	8/20/06 7:00 AM	8/20/06 2:30 PM
461409	LAWHORN	LACHANDRA	REG	531	8/20/06 4:00 PM	8/20/06 10:00 PM
461594	ROBINSON	KENNETH	REG	531	8/20/06 8:00 AM	8/20/06 2:30 PM
461597	SANKEY	MARCHE	REG	531	8/20/06 9:45 AM	8/20/06 1:45 PM
462087	HAWKINS	D'ANDRE	RTP	531	8/20/06 10:45 AM	8/20/06 10:51 AM
462087	HAWKINS	D'ANDRE	REG	531	8/20/06 10:51 AM	8/20/06 3:00 PM
462818	SWANN	MARKETA	RTP	531	8/20/06 1:00 PM	8/20/06 1:05 PM
462818	SWANN	MARKETA	REG	531	8/20/06 1:05 PM	8/20/06 5:15 PM
464345	JACKSON	JEREMY	RTP	531	8/20/06 3:45 PM	8/20/06 3:51 PM
464345	JACKSON	JEREMY	REG	531	8/20/06 3:51 PM	8/20/06 9:09 PM
464345	JACKSON	JEREMY	RTP	531	8/20/06 9:09 PM	8/20/06 9:15 PM

Floors:

- All managers and associates are expected to “**Clean As You Go**” and “**Pick It Up – Don’t Pass It Up**” as part of normal work duties. Pick up trash as you walk through the store.
- You must **maintain clear aisles** and passageways. Keep cases or merchandise, supplies, stepstools and other items in their correct place and not on the sales floor.
- Use appropriate **wet-floor warning signs** when performing work that is likely to cause water or other slip and fall hazards on the floor. **Clean or eliminate such hazards immediately.**
- Straighten out **mats** that become folded, curled, or buckled. If a mat will not lay down flat, it should be removed from the sales floor and replaced.
- **Immediately** eliminate spills, debris, other slip-fall hazards from the sales floor and work areas.
- **“Protect - Clean – Dry – Inspect.”**
 - Protect the spill by using “Warning” signs or place a cart over it.
 - Clean the spill as promptly as possible, using paper towels, mops as required.
 - Dry the floor as much as possible.
 - Inspect the area to make sure that the floor is dry before removing warnings.